

HOUSE BILL 1196

By Rudd

AN ACT to amend Tennessee Code Annotated, Title 8;
Title 16; Title 28; Title 29; Title 37; Title 38; Title
39; Title 40 and Title 49, relative to educator
protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 1, is amended by adding the following language as a new part:

49-1-1201. This part shall be known and may be cited as the "Tennessee Educators Protection Act."

49-1-1202. The general assembly finds that ensuring the quality of elementary and secondary education in Tennessee is a compelling state interest. The filing of meritless litigation against school districts, teachers and administrators, and other school employees interferes with the quality of public and private education, particularly where the litigation arises out of the good faith efforts of educators to maintain classroom discipline or to address threats to student safety. Meritless litigation also diverts a school's financial and personnel resources to litigation defense activities, which reduces the availability of those resources for educational opportunities for students. The general assembly finds that legislation to deter the filing of meritless litigation and to sanction deliberately false reports levied against educators is a rational and appropriate method to serve this compelling state interest. This part is intended to reflect and expand upon federal educator protection statutes. This part does not apply to public or private educators who have been convicted of a crime, or who have been terminated for misconduct.

49-1-1203. As used in this part:

(1) "Educational entity" means the state board of education, the department of education, and any other body, board, or agency that governs a public or private elementary or secondary school, and includes, but is not limited to, local education agencies and local boards of education; and

(2) "Employee" means:

(A) An individual who is elected or appointed to an educational entity;

(B) An individual who is an employee of an educational entity or who provides student related services to an educational entity on a contractual basis;
or

(C) An authorized volunteer who provides student related services to an educational entity.

49-1-1204.

(a) An educational entity or employee is not liable for taking any action related to the control, grading, suspension, expulsion, or discipline of a student unless that action violates a law, rule, or clearly articulated state or school policy, and occurs while the student is on the property of the educational entity or under the supervision of the educational entity or its employee. The plaintiff bears the burden of proving by clear and convincing evidence that the action of the educational entity or an employee violated a law, rule, or clearly articulated state or school policy.

(b) An educational entity or employee is not liable for making a report consistent with federal or state law to the appropriate law enforcement authorities, or to an official of an educational entity, if the individual making the report has reasonable grounds to suspect that a student is:

(1) Under the influence of alcohol, or a controlled substance that is not lawfully prescribed to the student;

(2) Involved in the illegal solicitation, sale, or distribution of alcohol or a controlled substance; or

(3) Involved in any other illegal activity.

49-1-1205.

(a) An educational entity is not liable for punitive or exemplary damages.

(b) An employee is not liable for punitive or exemplary damages for acts or omissions that occur within the course and scope of the employee's employment. For purposes of this subsection, an employee who acts with the specific intent to cause harm is not acting within the course and scope of the employee's employment.

(c) An educational entity or employee may file a civil action against any person eighteen (18) years of age or older who acts with the specific intent to cause harm by making a false accusation of criminal activity against that employee to law enforcement authorities, school district officials, or school district personnel. Any person eighteen (18) years of age or older found by a court with jurisdiction over the action to have acted with the specific intent to cause harm by making a false accusation of criminal activity against an employee to law enforcement authorities, school district officials, or school district personnel may be punished by fine only in an amount not to exceed two thousand dollars (\$2,000).

(d) An educational entity or employee may file a civil action against the parent, guardian, or legal custodian of a student of the educational entity or employee who acts with the specific intent to cause harm to another by making a false accusation of criminal activity against that employee to law enforcement authorities, school district officials, or school district personnel. Any student found by a court with jurisdiction over the action to have acted with the specific intent to cause harm by making a false accusation of criminal activity against an employee to law enforcement authorities, school district officials, or school district personnel may be subject to one (1) or more of the following:

(1) Expulsion;

(2) Suspension for a period of time as determined by the court;

(3) Community service of a type and for a period of time as determined by the court; or

(4) Any other sanction deemed appropriate by the court.

(e) This section does not apply to statements made regarding individuals elected or appointed to a local board of education.

(f) This section does not limit the civil or criminal liability of any person who makes a false statement alleging criminal activity by others.

49-1-1206.

(a) In any civil action or proceeding initiated against an educational entity or employee in which the educational entity or employee prevails, the court shall award the educational entity or employee costs and reasonable attorney fees.

(b) Expert witness fees may be included as a cost awarded under this section.

49-1-1207.

(a) An attorney shall not charge, demand, receive, contract, or collect for services rendered a fee in excess of twenty-five percent (25%) of any settlement or civil judgment awarded against an educational entity or employee under this part.

(b) Any party to an attorney fee agreement may file a civil action, or petition the appropriate court, to rescind any provision of an attorney fee agreement that is inconsistent with this section, and to compel the disgorgement of any fee paid in excess of the fee permitted under this section.

49-1-1208. Except as otherwise provided by statute, the existence of any policy of insurance indemnifying an educational entity against liability for damages is not a waiver of any defense that is available to the educational entity or employee in defense of any claim.

49-1-1209. This part does not limit, modify, or supersede title 29, chapter 39.

49-1-1210. This part does not infringe on any right or protection provided under the federal Individuals with Disabilities Education Act (20 U.S.C. § 1471, et seq.).

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 3. This act shall take effect July 1, 2017, the public welfare requiring it.